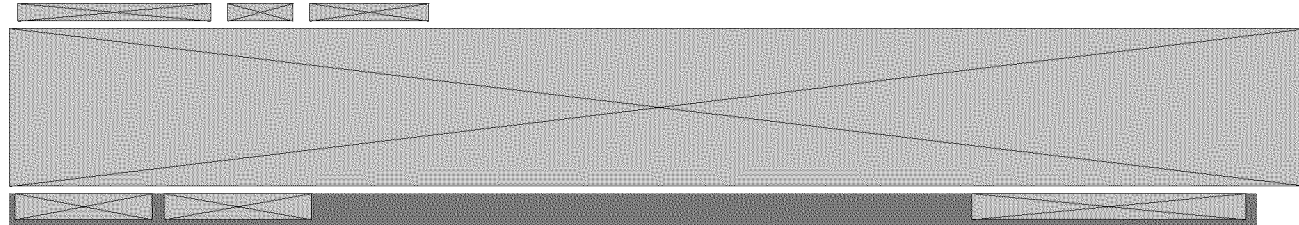


To: morris, makeba[morris.makeba@epa.gov]
From: BNA Highlights
Sent: Thur 4/3/2014 8:24:37 PM
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Latest Developments

DOJ Reaches Record \$5.15 Billion Settlement With Anadarko Affiliates

Posted April 03, 2014, 3:41 P.M. ET

The Justice Department announced a \$5.15 billion settlement with subsidiaries of Anadarko Petroleum Corp., the largest environmental enforcement recovery in the department's history.

The settlement with Kerr-McGee Corp. and its affiliates follows a court's determination the company engineered a fraudulent conveyance to avoid debts and liability for contaminated sites across the country.

"Kerr-McGee's businesses all over this country left significant, lasting environmental damage in their wake," Deputy Attorney General James Cole said in a statement. "It tried to shed its responsibility for this environmental damage and stick the United States taxpayers with the huge cleanup bill. Through a lot of hard work, we uncovered this fraud and recovered over \$5 billion dollars for the American people. This settlement demonstrates the Justice Department's firm commitment to preventing and combating all forms of fraud and to securing environmental justice."

The U.S. Bankruptcy Court for the Southern District of New York determined in December 2013 that Kerr-McGee Corp. is liable for billions of dollars in damages as a result of the 2005 spinoff of Tronox Inc. because the corporate reorganization was done with the intention of evading huge environmental liabilities (Tronox Inc. v. Kerr-McGee Corp., (In re Tronox Inc.), Bankr. S.D.N.Y., No. 09--ap-01198, 12/12/13).

The April 3 settlement will provide \$4.4 billion to fund environmental cleanup programs at six contaminated sites in Illinois, Mississippi, Nevada, New Jersey, New Mexico and South Dakota.

Senate Committee Approves Bill for Surface Chemical Tank Inspections

Posted April 03, 2014, 2:49 P.M. ET

The Senate Environment and Public Works Committee approved on a voice vote the Chemical Safety and Drinking Water Protection Act (S. 1961).

The bill, which now heads to the full Senate, amends the Safe Drinking Water Act. It would set minimum construction standards and other requirements for chemical storage sites located near sources of drinking water, require inspection of facilities every three to five years and require chemical facilities to share information with drinking water

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facilities.

The bill is sponsored by Sens. Joe Manchin (D-W.Va.), Jay Rockefeller (D-W.Va.) and Barbara Boxer (D-Calif.), who is chairman of the committee.

The swift committee approval of the bill was in response to the Jan. 9 spill of 7,500 gallons of 4-methylcyclohexane methanol upstream of an intake pipe for a water treatment plant that services Charleston, W.Va., and other communities. That spill, from a Freedom Industries Inc. facility, left more than 300,000 people without drinking water for several days.

Rep. Lowey Criticizes DOT Pace for Safer Crude Oil Rail Transport

Posted April 03, 2014, 3:28 P.M. ET

Rep. Nita Lowey (D-N.Y.), ranking member of the House Appropriations Committee, criticized the Transportation Department for not moving more quickly to address the safety of rail tank cars used to carry crude oil.

Lowey said that the ongoing rulemaking process at the Pipeline and Hazardous Materials Safety Administration and the Federal Railroad Administration is not estimated to result in a final rule on tank car design until late 2015, even though the Association of American Railroads has called for the aggressive phaseout of older tank cars.

"There doesn't seem to be an adequate sense of urgency to address this important safety issue," Lowey said during a hearing held by the Subcommittee on Transportation, Housing and Urban Development, and Related Agencies.

PHMSA Administrator Cynthia Quarterman, who appeared at the subcommittee hearing as a witness, said PHMSA and the railroad administration have been working "very, very hard" to develop the tank car rulemaking. Quarterman said the agencies have been drafting a proposed tank car rule that she hopes will move "very soon."

The safety of DOT-111 rail tank cars, the type of car that is typically used to carry crude oil and other flammable liquids in the U.S., has been called into question after a series of recent derailments involving trains carrying crude oil, including a July 2013 derailment in Lac-Mégantic, Quebec, that resulted in 47 fatalities. The Transportation Department is working on a rulemaking that would update the design standards, but there is currently a debate amongst industry groups, lawmakers and regulators over whether the design standards should be more stringent than the Association of American Railroads' CPC-1232 standard, a voluntary industry standard adopted for all new tank cars ordered after Oct. 1, 2011.

Interior Priorities, Energy Policies Questioned in Review for FY 2015

Posted April 03, 2014, 4:07 P.M. ET

Lawmakers questioned the priorities and policies of the Interior Department in terms of its energy regulations April 3 as they reviewed the department's requested budget for fiscal year 2015.

The members of the House Natural Resources Committee asked Interior Secretary Sally Jewell about the need for hydraulic fracturing regulations, the quality of the pending rule to update those regulations and the prospects for leasing of more onshore and offshore federal lands for energy production.

The committee's members were especially motivated in their questions by an April 4 deadline for members of the House to transmit their recommendations and requests to the House Appropriations Committee for the next fiscal year.

Jewell defended the pending rulemaking that will update regulations related to hydraulic fracturing, or fracking, and expressed a hope for additional fees to augment funding for Interior's regulatory work on energy resources. She noted that a request for a new off-budget fee for onshore oil and gas inspection was included in the budget request.

Rep. Doug Lamborn (R-Colo.) suggested instead that a portion of the billions of dollars already received annually by the federal government from oil and gas companies could be used to enhance some of Interior's work.

EPA Commits to Act on Backlog of State Implementation Plans

Posted April 03, 2014, 3:15 P.M. ET

The Environmental Protection Agency has committed to take action over the next four years on the backlog of state implementation plan submittals.

Janet McCabe, EPA acting assistant administrator for air and radiation, said April 3 she is pleased the agency will be addressing the backlog.

The Clean Air Act requires state and local agencies to submit to the EPA implementation plans that demonstrate how areas will meet national ambient air quality standards. The EPA has a history of not acting on plans for years.

McCabe told the Clean Air Act Advisory Committee that the EPA will work to clear the backlog by 2017 under an agreement developed by the agency, the National Association of Clean Air Agencies and the Environmental Council of the States.

House Subcommittee Advances Legislation to Extend CFATS Program

Posted April 03, 2014, 3:02 P.M. ET

A House Homeland Security subcommittee April 3 amended and then advanced by voice vote legislation that would extend the Department of Homeland Security's chemical security program for three years.

Members of the Subcommittee on Cybersecurity, Infrastructure Protection and Security Technologies approved an amendment in the nature of a substitute to H.R. 4007 following more than two and half hours of debate on additional amendments to the measure to extend the Chemical Facility Anti-Terrorism Standards (CFATS) program.

Democrats, led by subcommittee ranking member Rep. Yvette Clarke (N.Y.), acknowledged significant improvements to the legislation but asked for additional improvements to the bill prior to full committee consideration of the measure.

"While there is much to like in the bill, there are also areas that still need attention," Clarke said. "For instance, the approach taken on third-party inspectors is very troubling. I have reservations about the use of contractors in the inspector cadre, where this work is generally recognized as an inherently governmental responsibility."

Subcommittee Chairman Rep. Patrick Meehan (R-Pa.) said full committee consideration of the legislation would likely come in a few weeks.

Senate Finance Approves Bill to Extend Renewable Tax Credit

Posted April 03, 2014, 2:27 P.M. ET

The Senate Finance Committee voted April 3 to approve legislation that includes a \$13.4 billion retroactive extension of the renewable energy production tax credit, along with several other energy tax incentives that expired at the end of 2013.

The draft Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act was approved by voice vote.

The production tax credit, which would provide a 2.3 cents per-kilowatt-hour credit for electricity produced from wind and other renewable sources, was among the energy credits added to the legislation as part of a modified tax extenders bill released the morning of the markup.

Other energy tax credits that would be extended for two years under the bill include a 10 percent tax credit for homeowners who make energy efficiency improvements to their homes, known as the Internal Revenue Code 25C credit, and the 179D deduction for energy-efficient commercial buildings, which would allow a \$1.80 per-square-foot deduction for energy efficiency improvements of at least 50 percent.

In all, the legislation includes about \$22 billion in energy tax provisions over 10 years, including \$3.7 billion in credits for alternative fuels and vehicles, such as the \$1 per-gallon credit for biodiesel and a 50 cents per-gallon credit for other kinds of alternative fuels, including liquefied natural gas and hydrogen.

Rep. Capito Says Power Plant Shutdowns Could Hurt Coal Industry

Posted April 03, 2014, 3:44 P.M. ET

Rep. Shelley Moore Capito (R-W.Va.) tells Bloomberg BNA in an April 3 on-camera interview that the Environmental Protection Agency's carbon pollution regulations for existing power plants could cause "a lot" of shutdown in the nation's coal fleet and "damage our coal industry."

The EPA's carbon dioxide emissions standards for existing power plants are expected in June. The agency sent its proposed rule to the White House Office of Management and Budget for review March 31.

Capito also said she expects the power plant regulations will be an important issue as she runs for the U.S. Senate this fall. The West Virginia Republican is expected to face West Virginia Secretary of State Natalie Tennant (D) in November.

"I think we'll be talking about it a lot come November," Capito said.

The Bloomberg BNA interview is available at <http://www.bna.com/eye-hill-rep-v17179889383/>.

European Parliament Votes to Exempt Intercontinental Flights From Carbon Trading

Posted April 03, 2014, 3:04 P.M. ET

Members of the European Parliament April 3 opted to defuse a trans-Atlantic disagreement over the inclusion of aviation in the European Union emissions trading system (ETS) by voting to continue an exemption for intercontinental flights until 2017.

The continued exemption, dubbed "stop-the-clock 2," after the initial, temporary stop-the-clock measure would mean that intercontinental operators, such as American Airlines, Delta and United, would not need to surrender to EU authorities carbon allowances to cover the emissions of their flights to and from the bloc.

An exemption for intercontinental flights was first introduced in March 2013 in the face of international pressure, in particular from China, India, Russia and the United States, which resisted the inclusion of their operators' flights in the ETS.

The stop-the-clock 2 decision must be formally ratified by the EU Council before taking effect. The deadline for the Council's formal ratification is April 30, when the current temporary stop-the-clock measure expires.

Senate Committee Approves Bills to Restore Fish Habitat Estuaries

Posted April 03, 2014, 3:51 P.M. ET

The Senate Environment and Public Works Committee on a voice vote approved bills April 3 for full Senate consideration that would help restore fish habitat and protect the nation's estuaries against pollution, invasive species and changes in climate.

The Clean Estuaries Act (S. 2042), sponsored by Sen. Sheldon Whitehouse (D-R.I.), would reauthorize the National Estuary Program, which expired in 2010. The bill would reauthorize \$35 million each for fiscal years 2015 through 2018.

S. 2042 would cover 28 estuary programs. It would require each estuary's Comprehensive Conservation and Management Plan to identify risks to the estuary from both point and nonpoint sources of pollution and invasive species as well as include adaptation measures to mitigate those risks.

Also approved was the National Fish Habitat Conservation Act (S. 2080) that was sponsored by Sens. Ben Cardin (D-Md.), chairman of the Senate Environment and Public Works Subcommittee on Water and Wildlife, and Mike Crapo (R-Idaho). S. 2080 would authorize \$7.2 million annually for fish habitat restoration and protection projects that are supported by regional Fish Habitat Partnerships. The bill leverages public-private partnerships and engages commercial fishermen, anglers, outfitters and other angling and sportsmen industries.

The National Fish Habitat Conservation Act is supported by the American Sportfishing Association, the Conservation Fund, Trout Unlimited, the Congressional Sportsmen's Foundation, the Nature Conservancy, and the Association of Fish & Wildlife Agencies.

Senate Environment Committee Approves Brownfields Cleanup Act

Posted April 03, 2014, 4:01 P.M. ET

The Senate Environment and Public Works Committee approved a bipartisan bill by voice vote April 3 that would reauthorize the federal brownfields program at \$250 million annually through 2016.

The Brownfields Utilization, Investment and Local Development of 2013 (S. 491) would increase the limit for cleanup grants and expand grant eligibility for certain publicly owned sites and nonprofit organizations.

The bill was introduced March 7, 2013, by the late Sen. Frank Lautenberg (D-N.J.).

The measure passed with an amendment that would prohibit entities that are responsible for the release of hazardous materials from being eligible for these grants. The amendment also would modify the authorization for technical assistance grants to include a set-aside for rural and other disadvantaged areas. The amendment was offered by Sens. Barbara Boxer (D-Calif.), Tom Udall (D-N.M.), James Inhofe (R-Okla.), Cory Booker (D-N.J.) and Mike Crapo (R-Idaho).

No further action has yet been taken on a related bill (H.R. 2896), introduced July 31, 2013, by Rep. Louise Slaughter (D-N.Y.).

Emissions Rise Unlikely Under Backup Generator Rule, Groups Say

Posted April 03, 2014, 3:13 P.M. ET

Trade groups, electrical associations and energy services companies asked a federal appeals court to side with the Environmental Protection Agency and affirm a 2013 rule that allows backup emergency generators to operate up to 100 hours a year without pollution controls (*De. Dep't of Natural Res. & Env'tl. Control v. EPA*, D.C. Cir., No. 13–1093, 4/1/14).

In a joint brief filed April 1 in the U.S. Court of Appeals for the District of Columbia Circuit, respondent-intervenors supporting the agency's 2013 rule argued that pollutant emissions are not likely to increase under the rule that changed the number of hours engines may operate for emergency demand response from 15 hours to 100 hours.

Rather, they say, the rule imposes new environmentally protective restrictions, including the use of ultra-low-sulfur diesel fuel in diesel engines, and “narrowly defined conditions” in the rule constrain use to “near blackout conditions.”

The brief also says that because emergency demand response engines are not as economical as primary sources of electricity, they will only be used when necessary.

Research Council Seeks Separate Standard for Natural Gas Trucks

Posted April 03, 2014, 11:20 A.M. ET

The National Research Council recommended the Obama administration set a separate standard for some natural gas vehicles as it develops its second round of greenhouse gas emissions and fuel economy standards for medium- and heavy-duty vehicles.

Natural gas has emerged as a significant fuel choice for medium- and heavy-duty vehicles since the Environmental Protection Agency and National Highway Traffic Safety Administration first issued combined fuel economy and greenhouse gas emissions standards for the vehicles in 2011, the National Research Council of the National Academies said in its April 3 report “Reducing the Fuel Consumption and Greenhouse Gas Emissions of Medium- and Heavy-Duty Vehicles, Phase Two.” A separate natural gas standard would complement the existing standards for diesel- and gasoline-fueled engines, the report said.

“Natural gas engines are well developed although improvements can be pursued in engine efficiency, maintenance costs, and onboard vehicle storage costs,” the report said.

The report also recommended the EPA and NHTSA conduct additional studies to determine the life-cycle greenhouse gas emissions associated with natural gas use in vehicles.

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